

### **REMARKS**

Claims in the case are 1-18, upon entry of this amendment. Claims 1, 5, 11 and 16-18 have been amended, and Claims 19-36 have been cancelled herein.

In the Office Action of 14 April 2003, the Examiner has required an election from amongst three (3) groups of claims: Group I (i.e., Claims 1-18); Group II (i.e., Claims 19-34); and Group III (i.e., Claims 35 and 36). In a telephone conversation on 13 March 2003 with Examiner Joseph Edell, Applicants' Patent Agent, James Franks, provisionally elected Claims 1-34 from a two-way restriction between Claims 1-34 and Claims 35-36 (according to Agent Franks' notes).

Applicants herein elect, without traverse, the invention of Group I (i.e., Claims 1-18). All non-elected claims have been cancelled, and Applicants will take appropriate action relative thereto in due course.

The abstract of the disclosure stands objected to with regard to the term "attachment means." The term "attachment means" has been replaced with -- attachment element--. A new abstract is included herewith on a separate sheet. In light of the amendment to the abstract, reconsideration and withdrawal of this objection is respectfully requested.

Claims 1, 11 and 16-18 stand objected to. This objection is respectfully traversed in light of the amendments herein and the following remarks.

Claims 1, 11 and 16-18 have been amended herein to remove the subheadings (a), (b), (i) and (ii). In light of the amendments herein, and the preceding remarks, reconsideration and withdrawal of this objection to the claims is respectfully requested.

Claim 5 stands rejected under 35 U.S.C. §112, second paragraph. This rejection is respectfully traversed with regard to the amendments herein and the following remarks.

Claim 5 has been amended herein to remove the term "its" and to include appropriate recitation relative to said outer surface of said flexible member, for which antecedent basis is provided in the claim.

In light of the amendments herein and the preceding remarks, Applicants' claims are deemed to particularly point out and distinctly claim the subject matter which they regard as their invention. Reconsideration and withdrawal of this rejection is respectfully requested.

Claims 1, 2, 5-9, 12 and 18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over United States Patent No. 4,557,907 (**Talmon et al**) in view of United States Patent No. 6,382,728 B1 (**Buano**). This rejection is respectfully traversed with regard to the following remarks.

Talmon et al disclose a seat assembly (10) that includes: a **rigid** blow molded seat construction (12) (column 2, lines 27-29), that is reversibly attached by means of threaded fasteners (16) (column 3, line 13) to; a support (14), that is further reversibly attached by means of nuts (28) and bolts (30) to; a leaf spring (24) (column 2, lines 35-37). See also Figure 2 of Talmon et al.

It is respectfully submitted that Talmon et al has been mischaracterized in the Office Action of 14 April 2003. In the sentence bridging pages 4 and 5 of the Office Action, the seat assembly of Talmon et al is incorrectly described as including "a molded flexible member 12." Element (12) of seat assembly (10) is described by Talmon et al as being a **rigid** blow molded construction (column 2, lines 27-29).

On page 5 of the Office Action, the rigid blow molded construction (12) of Talmon et al's seat assembly (10) is incorrectly described as including "a fabric covering 22." Element (22) of seat assembly (10) is described by Talmon et al as being a back cushion (column 2, lines 32-33).

On page 5 of the Office Action, the rigid blow molded construction (12) of Talmon et al's seat assembly (10) is incorrectly described as including "a molded-in texture 20." Element (20) of seat assembly (10) is described by Talmon et al as being a bottom cushion (column 2, lines 32-33).

Buano discloses a folding chair that includes: a chair back (120) having holes (122); cushions (110) having a circumferential channel (116), a back portion (118) and a front portion (114). See Figures 8, 9 and 10, and column 7, lines 33-51 of Buano. The circumferential channel (116) is described by Buano as interlocking with the inner periphery of hole (122). See column 7, lines 34-38. Buano describes

the use of different sets of cushions with his folding chair, as such, a skilled artisan would deem the circumferential channel (116) as providing a **reversible** interlock with the inner periphery of hole (122). See column 8, lines 44-48 of Buano.

It is respectfully submitted that the Office Action mischaracterizes Buano. On page 5 of the Office Action, and with reference to Figure 10, the cushion (110) is incorrectly described as embedding the inner periphery of hole (122). If the inner periphery of hole (122) were embedded in the material of cushion (110), then cushion (110) would be irreversibly attached to chair back (120), as is known to one of ordinary skill in the art. However, the cushions of Buano's folding chair are reversibly interchangeable with the chair back. As such, the inner periphery of hole (122) is not embedded in the material of cushion (110).

Buano discloses his cushion as having a foam body (112) that may optionally have a front cover (113) and a separate back cover (117) adhered thereto. See Figure 10, and column 7, lines 46-50 of Buano. Buano does not disclose, teach or suggest a cushion that includes a continuous cover there over. In fact, Buano describes the coverings of his cushions as being removable (column 8, lines 47-48). As the cover of Buano's cushion is not continuous, the cover can not define a hollow interior. As such, Buano does not disclose a flexible molded member of thermoplastic material that has a hollow interior, which may be optionally filled with a foam.

Talmon et al disclose their seat assembly as including a rigid blow molded seat construction (12) as a necessary component. Buano provides no disclosure, teaching or suggestion as to his folding chair including a rigid blow molded seat construction. Buano discloses a chair back having holes therein as a necessary component of his folding chair. Talmon et al provide no disclosure, teaching or suggestion as to the inclusion of a chair back having holes in their seat assembly. As such there is no motivation to combine or otherwise modify the disclosures of Talmon et al and Buano.

As the Court of Appeals for the Federal Circuit has stated, there are three possible sources for motivation to combine references in a manner that would render claims obvious. These are (1) the nature of the problem to be solved, (2) the teaching of the prior art, and (3) the knowledge of persons of ordinary skill in the art, *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1458 (Fed. Cir. 1998). The nature of the problem to be solved and the knowledge of persons of ordinary skill in the art are not present here and have not been relied upon in the rejection. As for the teaching of the prior art, the above discussion has established that neither of the patents relied upon in the rejection provide the requisite teaching, and certainly do not provide the motivation or suggestion to combine that is required by Court decisions.

Even if Talmon et al and Buano were combined, Applicants' claimed molded article would not result from such combination. The molded hollow flexible member (e.g., 20) of the Applicants' claimed molded article (e.g., 2) is fixedly and **irreversibly** attached to the rigid support thereof (e.g., 10). See Figure 1 of Applicants' specification. The edges (e.g., 50) of the perforations (e.g., 53) in the rigid support (e.g., rigid seat back support 17) are embedded in the plastic material of the molded flexible member (e.g., 23) extending there through. See Figure 4, and page 13, lines 1-18 of Applicants' specification. As the edges of the perforations of the rigid support are embedded in the plastic material of the flexible member extending there through, the flexible member of Applicants' molded article is fixedly and irreversibly attached to the rigid support, as would be recognized by a skilled artisan. Talmon et al disclose their rigid blow molded seat construction (12) as being **reversibly** attached to support (14), as discussed previously herein. Talmon et al do not disclose, teach or suggest irreversibly attaching rigid blow molded seat construction (12) to support (14). Buano discloses the cushions (110) of his folding chair as being **reversibly** interlocked with holes (122) of chair back (120). Buano does not disclose, teach or suggest irreversibly interlocking the cushions of his folding chair with the chair back.

In addition, Talmon et al disclose their seat assembly as including a rigid blow molded seat construction as a necessary component. Talmon et al do not disclose teach or suggest that the rigid blow molded seat construction of their seat assembly could be flexible. Buano discloses the seat cushion of his folding seat as including a foam body,, that may optionally have removable and separate covers there over. As discussed previously herein, such a disclosure by Buano does not reasonably suggest or teach a molded article that includes a molded flexible member of thermoplastic material that has a hollow interior, and that may optionally be filled with foam.

The rejection appears to impermissibly use Applicants' specification as a blueprint for selecting, combining and modifying the cited references to arrive at Applicants' claimed invention, thereby making use of prohibited hindsight in the selection and application of those references. "To imbue one of ordinary skill in the art with knowledge of the invention in suit, when no prior art reference or references of record convey or suggest that knowledge, is to fall victim to the insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against its teacher." *W.L. Gore & Assoc. v. Garlock, Inc.*, 721 F.2d 1540, 1553 (Fed.Cir.1983). It is essential that "the decisionmaker forget what he or she has been taught at trial about the claimed invention and cast the mind back to the time the invention was made ... to occupy the mind of one skilled in the art who is presented only with the references, and who is normally guided by the then-accepted wisdom in the art." *Id.* One cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention. *In re Fine*, 837 F.2d 1071, 1075 (CAFC, 1988).

In light of the preceding remarks, Applicants' claims are deemed to be unobvious and patentable over Talmon et al in view of Buano. Reconsideration and withdrawal of this rejection is respectfully requested.

Claims 3 and 4 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Talmon et al in view of Buano. This rejection is respectfully traversed with regard to the following remarks.

As discussed previously herein, neither Talmon et al nor Buano provide the requisite motivation to combine or otherwise modify their respective disclosures as suggested in the Office Action. Talmon et al disclose their seat assembly as including a rigid blow molded seat construction (12) as a necessary component. Buano provides no disclosure, teaching or suggestion as to his folding chair including a rigid blow molded seat construction. Buano discloses a chair back having holes therein as a necessary component of his folding chair. Talmon et al provide no disclosure, teaching or suggestion as to the inclusion of a chair back having holes in their seat assembly.

In addition, even if Talmon et al and Buano were combined, Applicants' claimed molded article would not result from such combination, as discussed previously herein. In particular, Talmon et al and Buano, either alone or in combination do not disclose, teach or suggest a molded flexible hollow member that is fixedly and irreversibly attached to a rigid support.

Talmon et al and Buano either alone or in combination do not disclose, teach or suggest the molded article of Applicants' claims, and in particular Claim 1. Talmon et al and/or Buano do not render Claim 1 obvious. As such, Talmon et al and/or Buano are not deemed to render Claims 3 and 4 obvious (which each depend either directly or serially from Claim 1).

In light of the preceding remarks, Applicants' claims (including Claims 3 and 4) are deemed to be unobvious and patentable over Talmon et al in view of Buano. Reconsideration and withdrawal of this rejection is respectfully requested.

Claims 10 and 11 stand rejected under 35 U.S.C. §103(a) as being obvious over Talmon et al in view of Buano, and further in view of United States Patent No. 5,711,575 (Hand et al). With regard to the following remarks, this rejection is respectfully traversed.

Talmon et al and Buano have been discussed previously herein. Hand et al disclose an inflatable lumbar support system that includes a plurality of thermoplastic layers, that form at least two laterally spaced bladders (abstract). The inflatable lumbar support system is reversibly attached to a chair by means of mounting hooks (180) (Figure 12, and column 10, lines 54-59).

As discussed previously herein, neither Talmon et al nor Buano provide the requisite motivation to combine or otherwise modify their respective disclosures as suggested in the Office Action. Talmon et al disclose their seat assembly as including a rigid blow molded seat construction (12) as a necessary component. Buano provides no disclosure, teaching or suggestion as to his folding chair including a rigid blow molded seat construction. Buano discloses a chair back having holes therein as a necessary component of his folding chair. Talmon et al provide no disclosure, teaching or suggestion as to the inclusion of a chair back having holes in their seat assembly.

In addition, even if Talmon et al and Buano were combined, Applicants' claimed molded article would not result from such combination, as discussed previously herein. In particular, Talmon et al and Buano, either alone or in combination do not disclose, teach or suggest a molded flexible hollow member that is fixedly and irreversibly attached to a rigid support.

The rigid blow molded seat construction of Talmon et al is not flexible. The cushions of Buano are fabricated from a foam body that is not hollow. The inflatable lumbar support system of Hand et al includes a plurality of thermoplastic layers, that form at least two laterally spaced bladders. Neither Talmon et al nor Buano disclose a flexible bladder having a hollow interior. As such, Talmon et al, Buano and Hand et al do not provide the requisite motivation that would lead one of ordinary skill in the art to combine or otherwise modify their disclosures.

Even if Talmon et al, Buano and Hand et al were combined, the molded article of Applicants' Claims would not result. Talmon et al, Buano and Hand et al, either alone or in combination do not disclose, teach or suggest a molded flexible hollow member that is fixedly and **irreversibly** attached to a rigid support. Talmon et al disclose their rigid blow molded seat construction (12) as being **reversibly** attached to support (14), as discussed previously herein. Talmon et al do not disclose, teach or suggest irreversibly attaching rigid blow molded seat construction (12) to support (14). Buano discloses the cushions (110) of his folding chair as being **reversibly** interlocked with holes (122) of chair back (120). Buano does not disclose, teach or suggest irreversibly interlocking the cushions of his folding chair

with the chair back. The inflatable lumbar support system of Hand et al is **reversibly** attached to a chair by means of mounting hooks (180).

In light of the preceding remarks, Applicants' claims are deemed to be unobvious and patentable over Talmon et al in view of Buano, and in further view of Hand et al. Reconsideration and withdrawal of this rejection is respectfully requested.

Claims 13, 14, 16 and 17 stand rejected under 35 U.S.C. §103(a) as being obvious over Talmon et al in view of Buano, and further in view of United States Patent No. 5,522,645 (**Dahlbacka**). This rejection is respectfully traversed with regard to the following remarks.

Talmon et al and Buano have been discussed previously herein, and are not deemed to render Applicants' claims obvious. Dahlbacka discloses a seat which includes: a shell that includes a channel therein; a cushion that includes a ridge that extends into the channel of the shell; and mechanical fasteners that extend through the channel and the ridge of the cushion therein, so as to retain the cushion on the shell. See the abstract of Dahlbacka.

It is respectfully submitted that the Office Action has mischaracterized Dahlbacka. On page 7 of the Office Action, and with reference to Figure 6, the shell (12) of Dahlbacka's seat is incorrectly described as having "anchoring extensions 18 extending into the flexible member," i.e., cushion (14). Element (18) of vehicle seat (10) is described by Dahlbacka as a brad (column 6, lines 29-48). A brad is a type of spike, e.g., a thin nail of the same thickness throughout but tapering in width and having a slight projection at the top of one side, rather than a head. See the dictionary definition of brad included in the appendix herewith.

Dahlbacka does not disclose, teach or suggest the presence of anchoring extensions that extend from the shell (12) into the cushion (14) of his seat. The cushion (14) of Dahlbacka's seat has a ridge (20) that extends into the channel (22) of the shell (12). The ridge (20) is mechanically held within channel (22) by means of connectors, i.e., brads, (18) that are driven through the outer and inner walls of the channel (22) and through the ridge (20) pressed therein. See Figure 6, and column 6, lines 29-48 of Dahlbacka.




In light of the preceding remarks, Applicants' claims are deemed to be unobvious and patentable over Talmon et al in view of Buano, and further in view of Dahlbacka. Reconsideration and withdrawal of this rejection is respectfully requested.

The references made of record by the Examiner (in form PTO-892), but not relied upon in the Office Action of 14 April 2003, are considered to be no more material to the present case than those references already submitted to the Office in the present case.

In light of the amendments herein and the preceding remarks, Applicants' presently pending claims are deemed to meet all the requirements of 35 U.S.C. §112, and to define an invention that is unanticipated, unobvious and hence, patentable. Reconsideration of the rejections and allowance of all of the presently pending claims is respectfully requested.

Respectfully submitted,

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